

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHRISTINA LIEF F/B/O TASHA LIEF,)
)
Plaintiff,)
)
vs.) Civil Action No. 06-274-GMS
)
CAPE HENLOPEN SCHOOL DISTRICT)
and the DELAWARE DEPARTMENT of)
EDUCATION,)
)
Defendants.)

JOINT STATUS REPORT

Pursuant to the Court's Order of January 10, 2007 (D.I. 06-274), the parties submit the following joint status report.

1. Jurisdiction and Service.

The parties agree that this Court has jurisdiction over the subject matter of, and the parties to, this action. Plaintiff believes that no additional parties remain to be served. Defendant Cape Henlopen School District believes that it has not been properly served process in the instant matter.

2. Substance of the Action.

a. Plaintiff's Statement:

The factual bases for the claims are set forth in the six day transcript. Plaintiff claims the Defendants denied the child FAPE as defined in Delaware and federal statutory law. As a result of this failure, parent was required to place the child at an out of state educational facility and seeks reimbursement for these costs. Plaintiff alleges IEP irregularities and that Defendant operated so as to deny the student a meaningful benefit from her education.

b. Defendants' Statement: Defendants deny that they violated the Individuals With Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, the Rehabilitation Act, 29 U.S.C. § 794 ("Section 504"), 42 U.S.C. § 1983 ("Section 1983"), Chapter 31 of Title 14 of the Delaware Code, and/or any of the aforementioned statutes' implementing regulations. Defendants further deny that Plaintiff is entitled to any relief of the relief requested. Despite the Plaintiff's claims to the contrary, the Due Process Hearing Panel (DE DP 05-26) was impartial, appropriately conducted the multi-day hearing in the instant matter, appropriately weighed the testimony of the witnesses and the documentary evidence, appropriately applied the relevant law to the facts of the case, and correctly determined that the Cape Henlopen School District did not commit any of the procedural errors alleged by Plaintiff, and furthermore, that it had provided Tasha Lief with a free appropriate public education ("FAPE"). Therefore, Defendants assert that the Due Process Hearing Panel's decision to deny Plaintiff's requested relief was entirely proper, is entitled to substantial deference, and should be affirmed in all respects.

3. Identification of Issues.

Plaintiff. Did the conduct of the Defendant deny student FAPE? Is parent entitled to reimbursement for placement expenses associated with the child's out of state educational placement?

Defendants. Did the Cape Henlopen School District provide Tasha Lief with a free appropriate public education and, if not, is the Plaintiff entitled to reimbursement expenses relating to her unilateral placement of the student at an out-of-state private school in North Carolina?

4. **Narrowing of Issues.**

Plaintiff. It is submitted that the factual issues are capable of narrowing by the parties.

Defendants. The Defendants intend to file dispositive motions with regard to all of the Plaintiff's claims.

5. **Relief**

Plaintiff. Plaintiff seeks compensation for expenses associated with the out of state placement in an educational facility for the student (including housing, travel, school tuition and related school expenses).

Defendants. Defendants seek the affirmation of the Due Process Panel's decision.

6. **Amendment of the Pleadings-**

Plaintiff. None at this time.

Defendants. The Defendants do not intend to amend the pleadings at this time.

7. **Joinder of Parties.**

Plaintiff. None at this time.

Defendants. The Defendants do not intend to join additional parties at this time.

8. **Discovery.**

Plaintiff. Given the exhaustive administrative hearing previously conducted in this matter, limited discovery may be required (for document production).

Defendants. Discovery has not yet started. Should Plaintiff request to conduct any discovery in the instant matter, Defendants' shall conduct discovery as to all of the claims and affirmative defenses pled in the Complaint and Defendant's Answer. Defendants also reserve the right to conduct discovery as to any matter upon which Plaintiff conducts discovery.

9. Estimated trial length

Plaintiff. One full day.

Defendants. Two full days.

10. Jury trial.

Neither party has demanded a jury trial.

11. Settlement.

Plaintiff. With the addition of new counsel for several of the parties, settlement negotiation have not yet occurred in earnest.

Defendants. No settlement negotiations have occurred.

12. Other Matters.

Plaintiff. N/A

Defendants. Because confidential information will have to be exchanged in this action, the Defendants believe that a protective order will be necessary. The Defendants intend to discuss the form of stipulation and protective order with counsel for Plaintiff and will abide by the Local rules in the interim.

13. Counsel for the parties have conferred about each of the above matters.

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